

REMARKS

The Office Action dated October 21, 2005 has been carefully considered. As a result of that consideration, all of claims 5-11 have been amended. With the exception of the amendment of claim 5, it is believed that the amendments are clarifying in nature and do not alter the scope of the claims in their unamended form.

Claim 5 has been amended to recite that the closure device has, in its expanded condition, a substantially planar configuration, i.e., the limitation set forth in claim 6 has now been incorporated into claim 5. The Examiner has indicated that claim 6 is considered allowable and it is believed that this amendment renders claim 5 allowable.

In this regard, it is noted that the device of the Doshi published application, which has now issued as Patent No. 6,722,360, never assumed a substantially planar configuration in its expanded condition. In addition, the Doshi device does not have a flexible membrane "for substantially sealing the opening from airflow therethrough", but rather, as shown in Figures 3 and 4, is provided with a valve having movable element 26 which is designed to permit the passage of air through the valve 21.

Thus, claim 5 is distinctly different from the Doshi reference because the device of claim 5 is designed to seal a lung passage to reduce the volume of the lung whereas the Doshi reference discloses a valve-type structure which permits airflow and does not reduce the volume of the lung. Still further, claim 5 now recites that in its expanded condition, the closure device has a substantially planar configuration whereas the anchoring members 20A, B, C and D never lose their annular configuration but rather simply change the diameter of that annular configuration as can be seen by comparing Figures 1 and 2 of Doshi.

Claims 6-9 are believed to be patentable for the same reason as claim 5.

Method claims 9-11 have been amended to more clearly set forth the feature comprising the substantially planar configuration of the closure device in its expanded condition and claim 9 also recites that the planar body also substantially seals the bronchial passage in which it is installed. Claims 10 and 11 are dependent on claim 9 and are believed to be patentably distinct from the Doshi reference for the same reasons as claim 9.

For the reasons stated above, it is believed that claims 5-11 are in condition for allowance and a favorable action is respectfully solicited.

The Commissioner is authorized to charge Orrick's Deposit Account No. **15-0665** for any fees required under 37 CFR §§ 1.16, 1.17 and 1.445 that are not covered, in whole or in part and credit any overpayments to said Deposit Account No. **15-0665**.

Respectfully submitted,

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